

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:14-cv-00292-MR-DSC**

JENNIFER NICOLE FOSTER,

Plaintiff,

vs.

AMANDA FISHER, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on the Plaintiff's Request for Entry of Default/Motion for Default Judgment against Defendant Jack Van Duncan [Doc. 12]; Plaintiff's Motion for Leave to Amend [Doc. 13]; and Plaintiff's Motion to Allow *Pro Se* Electronic Filing [Doc. 14].

On November 7, 2014, the Plaintiff, proceeding *pro se*, filed this action against Defendants Amanda Fisher and Jack Van Duncan, asserting claims for violation of her civil rights. [Doc. 1]. On December 19, 2014, the Plaintiff filed a motion seeking the entry of default against Defendant Van Duncan for failing to appear or otherwise answer the Complaint.¹ [Doc. 12]. On December 22, 2014, counsel for Defendant Van Duncan filed a notice

¹ The Clerk's Office did not docket the Plaintiff's motion until December 23, 2014.

of appearance and a motion for an extension of time to answer or otherwise respond to the Complaint. [Docs. 9, 10]. The Magistrate Judge granted Defendant Van Duncan's motion [Doc. 11], and on December 31, 2014, the Defendant filed a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In light of the fact that Defendant Van Duncan has now appeared in this action and responded to the Complaint, the Plaintiff's motion for an entry of default is moot and is therefore denied.

On December 30, 2014, the Plaintiff filed a motion for leave to file an amended complaint. [Doc. 13]. The Plaintiff did not support her motion with a brief as required by Local Civil Rule 7.1(C), nor did she provide the Court with a copy of her proposed amended pleading. For these reasons, the Plaintiff's motion is denied without prejudice. The Court further notes, however, that the Plaintiff has the right to amend her complaint once as a matter of course within twenty-one (21) days of the filing of a motion to dismiss pursuant to Rule 12(b). See Fed. R. Civ. P. 15(a)(1)(B). Both Defendants have now filed motions to dismiss. [Docs. 15, 18]. Thus, at least for a limited period of time, the Plaintiff may file an amended complaint without seeking further leave of Court.

Finally, the Plaintiff seeks permission to use electronic filing in this matter. Parties who are proceeding *pro se* are not permitted to file documents electronically. See Administrative Procedures Governing Filing and Service by Electronic Means, at 3 (W.D.N.C., rev. Jan. 1, 2012). In the exercise of its discretion, however, the Court will grant the Plaintiff the right to receive notice via e-mail whenever a pleading or other paper is filed electronically in this matter. Id.


IT IS, THEREFORE, ORDERED as follows:

(1) Plaintiff's Request for Entry of Default/Motion for Default Judgment against Defendant Jack Van Duncan [Doc. 12] is **DENIED AS MOOT**; (2) Plaintiff's Motion for Leave to Amend [Doc. 13] is **DENIED WITHOUT PREJUDICE**;

(3) Plaintiff's Motion to Allow *Pro Se* Electronic Filing [Doc. 14] is **DENIED**; however, the Court will grant the Plaintiff the right to receive notice via e-mail whenever a pleading or other paper is filed electronically in this matter. Should the Plaintiff elect to receive such notifications, the Plaintiff shall provide her e-mail address to the Clerk's Office.

IT IS SO ORDERED.

Signed: January 12, 2015


Martin Reidinger
United States District Judge

